



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference WOP14103A		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/415)	
International application No. PCT/GB 03/00096	International filing date (day/month/year) 13.01.2003	Priority date (day/month/year) 11.01.2002	
International Patent Classification (IPC) or both national classification and IPC A61K7/06			
Applicant COSMETIC WARRIORS LIMITED et al.			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 5 sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>			
Date of submission of the demand 11.08.2003		Date of completion of this report 05.03.2004	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Molina de Alba, J Telephone No. +49 89 2399-7823 	

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/00096**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

Description, Pages

1, 3-9 as originally filed
2, 10 filed with telefax on 08.12.2003

Claims, Numbers

1-19 filed with telefax on 08.12.2003

Drawings, Sheets

1/2-2/2 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/00096**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to the report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-19
	No: Claims	
Inventive step (IS)	Yes: Claims	1-19
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-19
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB03/00096

1) Reference is made to the following documents:

- D1: WO 01 82889 A (AMBROSEN HELEN ;LUSH LTD (GB); CONSTANTINE MARGARET (GB); CONSTANT) 8 November 2001 (2001-11-08)
- D2: WO 02 47634 A (LUSH LIMITED) 20 June 2002 (2002-06-20)
- D3: US-A-4 344 446 (EHRHARDT HORST) 17 August 1982 (1982-08-17)
- D4: EP-A-0 823 252 (VEDA CORP A) 11 February 1998 (1998-02-11)

2) The present application relates now to hair conditioning solid emulsions comprising at least one hair conditioning agent and at least one solidifying ingredient; wherein the at least one solidifying agent comprises cocoa butter and the product is prepared from a mixture including 10% to 50% by weight of the cocoa butter.

3) The amendments filed by the Applicant with fax of 08.12.2003 fulfil the requirements of Article 34(2)(b) PCT. They are therefore allowable.

4) Re Item V

4.1 Novelty (Art. 33(2) PCT)

Document D2 has been published after the priority date (11.01.2002) but before the filing date (13.01.2003) of the present application. In the case where the priority of the present application has been validly claimed, D2 is not regarded as prior art according to Rule 64.1(b)(ii) PCT. However, if the priority of the present application turns out not to be validly claimed, this document may be considered as relevant prior art within the European examination procedure, for the assessment of novelty according to Article 54(3) EPC.

No other document in the available prior art discloses a composition or a method as in independent claims 1 and 17. The presently claimed subject-matter is therefore regarded as novel.

4.2 Inventive Step (Art. 33(3) PCT)

Documents D3 and D4, which are regarded as the closest state of the art, disclose solid shampoo and hair conditioning emulsions (see D3, col. 5, l. 16- col. 6, l. 10 and examples 1-2; D4, pg. 7, l. 39-44). Claim 1 differs from D3 and D4 in that one of the solidifying agents

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB03/00096

is cocoa butter. The problem to be solved by the present application may thus be regarded as providing **alternative** solid emulsions for the **conditioning of the hair**.

Document **D1** discloses (see abstract and pg. 3, last par. to pg. 4, par. 2) solid cosmetic emulsions for the **treatment of the skin**, comprising 16-76 % by weight cocoa butter and a method for the preparation thereof. There is however no hint in **D1**, which suggests the application of the method disclosed therein, in the preparation of solid emulsions for conditioning the hair. The skilled person would thus find no motivation to combine **D3** or **D4** with **D1**. Therefore, the presently claimed subject-matter is regarded as inventive.

4.3 Industrial applicability (Art. 33(4) PCT)

Is acknowledged for the whole set of claims.

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